



STEVE CLARK
ATTORNEY GENERAL

STATE OF ARKANSAS
OFFICE OF THE ATTORNEY GENERAL
JUSTICE BUILDING, LITTLE ROCK 72201
January 24, 1986

(501) 371-2007

OPINION NO. 86-17

The Honorable Bob Teague
State Representative
P. O. Box 2113
Little Rock, Arkansas 72203

Dear Representative Teague:

This letter is in response to your request for a formal opinion on the following issue:

In cases involving driving while intoxicated, can a judge suspend the sentence of a defendant on the provision that his or her record remain clear for a specified period of time.

The Supreme Court of Arkansas has held that sentencing provisions of the Omnibus DWI Act of 1983 (§§75-2501--75-2514) are mandatory. The "trial courts have no discretion to use alternatives of probation or suspension pursuant to Chapter 12 of Title 41 of Arkansas Statutes Annotated as they may with respect to many other offenses." Harris v. State, 285 Ark. 345, 346, 686 S.W.2d 440 (1985). See also, Lovell v. State, 283 Ark. 425, 678 S.W.2d 318 (1984), reh'g denied 283 Ark. 434-A, 681 S.W.2d 395 (1984).

House Bill 1001 of the 75th General Assembly, enacted as Act 967 of 1985 and codified at Ark. Stat. Ann. §§75-1059, 1060, refers to traffic misdemeanor cases other than cases involving driving under the influence of alcohol or drugs. A copy of Act 967 is attached for your review.

The foregoing opinion, which I hereby approve, was prepared by Assistant Attorney General Patricia G. Cherry.

Sincerely,

A handwritten signature in dark ink, appearing to read "Steve Clark", written over the typed name.
STEVE CLARK
Attorney General

SC:dd